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09/912,784	07/25/2001	Jeffrey K. Jeansonne	1662-36800 JMH (P00-3492)	5605
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HEWLETT PACKARD COMPANY P O BOX 272400, 3404 E. HARMONY ROAD INTELLECTUAL PROPERTY ADMINISTRATION FORT COLLINS, CO 80527-2400			ART UNIT 2152	PAPER NUMBER

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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 09/912,784  
Filing Date: July 25, 2001  
Appellant(s): JEANSONNE ET AL.

**MAILED**  
DEC 04 2006  
Technology Center 2100

Jeffrey Jeansonne, et al.  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 09/25/06 appealing from the Office action  
mailed 07/14/06.

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**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

No amendment after final has been filed.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is deficient. 37 CFR 41.37(c)(1)(v) requires the summary of claimed subject matter to include: (1) a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number, and to the drawing, if any, by reference characters and (2) for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function as permitted by 35 U.S.C. 112, sixth paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters. The brief is deficient because on page 13 of the appeal brief, the citation of (p. 11, [0034], lines 3-6) does not support the claimed feature "both

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before an operating system of the computer system is booted". The citation contains no mention of an operating system, or the booting of an operating system.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

US 6,448,927	Ishigaki, et al	9-2002
US 6,473,811	Onsen	10-2002
US 2002/0054158 A1	Asami	05-2002
US 4,194,833	Lester, et al	03-1980

"Sporty's JD-200 Transceiver Operator's Manual", 1999

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

Claims 17, 21, 24-30, 32, 34, 36-38, 40, 44-50, and 53-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant Admitted Related Art (AARA), in view of Ishigaki et al. (hereinafter Ishigaki), US 6,448,927.

As per claim 17, AARA teaches a computer system comprising:

- a main system processor (AARA, pg 2-3, [0007-0008], notebook computer. Notebook computers inherently have a main system processor in order to perform the computing needs of the system);

- a system main memory coupled to the processor (AARA, pg 2-3, [0007-0008], notebook computer. Notebook computers inherently have a main memory coupled to the main processor in order to perform the computing needs of the system);

- a radio module that scans for available wireless access points which support two-way data communications (AARA, pg 2, [0005-0006], where base station radio unit transmit/receives data to and from computer system's radio unit);

- a power supply coupled to the radio module and the main system processor (AARA, pg 2-3, [0007-0008], scanning while powered on);

AARA does not explicitly say an electrical switch mounted on an external surface of the computer system; and

a seek logic coupled to the electrical switch and the power supply

wherein the seek logic is configured to commands the power supply to power the radio module responsive to the actuation of the electrical switch

wherein the radio module scans for available wireless access points, and indicates the availability of a wireless access point, both while the computer system is powered-off.

However, Ishigaki teaches an electrical switch mounted on an external surface of the computer system (Ishigaki, item 3b on Fig 2, wherein the button constitutes a switch); and

a seek logic coupled to the electrical switch and the power supply (Ishigaki, Fig 2, item 1 and 2);

wherein the seek logic is configured to commands the power supply to power the radio module responsive to the actuation of the electrical switch (Ishigaki, see for example, Col. 4, lines 1-15), and

wherein the radio module scans for available wireless access points (Ishigaki, Col. 4, lines 9-10), and indicates the availability of a wireless access point (Ishigaki, Col. 4, lines 10-15), both while the computer system is powered-off (Ishigaki, the mobile device is in a low powered state, Col. 4, lines 50-65).

It would have been obvious to the person of ordinary skill in the art at the time of the invention to incorporate Ishigaki with AARA because the combination

would improve the efficiency of AARA's systems by reducing dissipation of electrical current, (Ishigaki, Col. 2, lines 15-20).

As per claim 21, AARA – Ishigaki disclose the invention substantially as rejected in claim 17 above, including the electrical switch further comprises a momentary push button switch mounted on an outer surface of a video display of the computer system (Ishigaki, see for example, Fig 2, item 3b).

As per claim 24, AARA – Ishigaki disclose the invention substantially as rejected in claim 17 above, including responsive to a momentary actuation of the electrical switch, the seek logic is configured to command the power supply to power the radio module for a sufficient amount of time to allow the radio module to perform a wireless access seek function, and wherein the seek logic commands the radio module to perform a scan for available wireless access points responsive to the momentary actuation of the electrical switch (Ishigaki, Col. 4, lines 1-15).

As per claim 25, AARA – Ishigaki disclose the invention substantially as rejected in claim 24 above, including a power supply enabled input signal, wherein the power supply enabled input signal is asserted to indicate that the notebook computer is powered-on (Ishigaki, Col. 4, lines 5-15, position data forwarding signal to communication means 3); and

wherein the seek logic is further configured to refrain from commanding the radio module to perform a scan for available wireless access points if the power supply input signal is asserted (Ishigaki, Col. 4, lines 10-25, where GPS tracking is turned off after position is obtained, and position data forwarding signal means to communication means 3).

As per claim 26, AARA – Ishigaki disclose the invention substantially as rejected in claim 17 above, including a method of finding wireless access points with a computing device, the method comprising:

requesting a wireless access seek with the computing device powered-off (Ishigaki, Col. 4, lines 1-2);

scanning for available wireless access points which support two-way data communication (AARA, pg 2, [0005-0006], where base station radio unit transmit/receives data to and from computer system's radio unit), the scanning with a wireless communication module of the portable computing device while remaining portions of the computing device are powered off (Ishigaki, Col. 4, lines 1-15 and lines 50-67); and

indicating the availability of wireless access points while the remaining portions of the computing device are powered off (Ishigaki, Col. 4, lines 60-65).

As per claim 27-28, claims 27-28 are rejected for the same reasons as rejection to claims 17 and 24 above respectively.



As per claim 29, claims 29 are rejected for the same reasons as rejection to claims 17 above.

As per claim 30, AARA – Ishigaki disclose the invention substantially as rejected in claim 26 above, including executing software in a microcontroller of a wireless communication module, and wherein the software controls various radio components in the wireless communication module (wherein the components in a mobile device are controlled by software, embedded, operating system or otherwise).

As per claim 32, AARA – Ishigaki disclose the invention substantially as rejected in claim 17 above, including a computer comprising:

- a main system processor (AARA, pg 2-3, [0007-0008], notebook computer. Notebook computers inherently have a main system processor in order to perform the computing needs of the system);

- a system main memory coupled to the processor (AARA, pg 2-3, [0007-0008], notebook computer. Notebook computers inherently have a main memory coupled to the main processor in order to perform the computing needs of the system);

- a seek request button mounted on an outer surface of the computer (Ishigaki, Fig 2, item 3b);

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a seek logic coupled to seek request button (Ishigaki, Fig. 2, item 1 and 2);

a first power supply coupled to seek logic, and wherein the seek logic enables substantially only the first power supply responsive to assertion of the seek request button (Ishigaki, the power supply is inherent in the current invention, Col. 4, lines 1-15);

a wireless communication module coupled to seek logic and the first power supply, wherein the first power supply powers the wireless communication module, and wherein the seek logic enables the wireless communication module to perform seeking for wireless access points for network data communications, the seeking responsive to assertion of the seek request button (Ishigaki, Col. 4, lines 1-15);

a notification device coupled to the wireless module wherein the notification device indicates the unavailability of a wireless access point (Ishigaki, Col. 6, lines 10-20).

As per claim 34, AARA – Ishigaki disclose the invention substantially as rejected in claim 32 above, including the seek logic refrains from enabling the wireless communication module to perform seeking for wireless access clients if the computer is powered-on (Ishigaki, Col. 7, lines 38-50).

As per claim 36, claim 36 is rejected for the same reasons as rejection to claim 17 above.

As per claim 37, claim 37 is rejected for the same reasons as rejection to claim 17 above.

As per claim 38, AARA – Ishigaki disclose the invention substantially as rejected in claim 36 above, including the means for controlling refrains from enabling the means for wireless network access to perform seeking for wireless access points if the computer system is powered-on (Ishigaki, Col. 7, lines 38-50);

As per claim 40, claim 40 is rejected for the same reasons as rejection to claims 17, 26, 32, 37 above.

As per claim 44, AARA – Ishigaki disclose the invention substantially as rejected in claim 40 above, including the wireless communication module further comprises:

- a microcontroller coupled to the seek request button and the system battery, and wherein the microcontroller is programmed to perform wireless access seeks responsive to assertion of the seek request button (Ishigaki, Col. 4, lines 1-15);

- a plurality of radio circuits coupled to the microcontroller adapted to facilitate the microcontroller's wireless access seeks (Ishigaki, Col. 4, lines 1-15).

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As per claim 45, claim 45 is rejected for the same reasons as rejection to claim 17 above.

As per claim 46, claim 46 is rejected for the same reasons as rejection to claim 26 above.

As per claim 47, claim 47 is rejected for the same reasons as rejection to claim 17 above.

As per claim 48, the claim is rejected for the same reason as combination of rejection to claims 17, 22, 34, and 38 above respectively.

As per claim 49-50, claims 49-50 are rejected for the same reasons as rejection to claim 17, 21 above respectively.

As per claim 53, AARA – Ishigaki disclose the invention substantially as rejected in claim 17 above, including the radio module indicates the unavailability of a wireless access point while the computer system is powered off (Ishigaki, Col. 6, lines 10-20).

As per claim 54, AARA – Ishigaki disclose the invention substantially as rejected in claim 17 above, including a computer system comprising:

a radio module that scans for available wireless access points that support two-way data communications (AARA, pg 2, [0005-0006], where base station radio unit transmit/receives data to and from computer system's radio unit);

a power supply coupled to the radio module (power supply is inherent; AARA, pg 2-3, [0007-0008], scanning while powered on);

an electrical switch mounted on an external surface of the computer system (Ishigaki, Fig 2, item 3b); and

a seek logic coupled to the electrical switch and the power supply (Ishigaki, Fig 2, item 1 and 2);

wherein the seek logic commands the power supply to power the radio module responsive to the actuation of the electrical switch (Ishigaki, Col. 4, lines 1-15); and

wherein the radio module scans for available wireless access points (Ishigaki, Col. 4, lines 1-15), and indicate the availability of a wireless access point, both before the operating system of the computer system is booted (Ishigaki, Col. 4, lines 50-65).

As per claim 55, AARA – Ishigaki disclose the invention substantially as rejected in claim 54above, including the radio module indicates the unavailability of a wireless access point before the operating system of the computer system is booted (Ishigaki, Col. 4, lines 50-65).

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Claims 18-20, 31, 33, 39, 41-43, and 51-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over AARA – Ishigaki, as applied to claims 17, 26, 32, 36, 40, and 49 above, in view of what was well known in the art.

As per claim 18, claim 18 is rejected for the same reasons as rejection to claim 17 above.

Further, Official Notice is taken (see MPEP 2144.03) USB connection is well known and routinely used for plug and play devices at the time of the invention was made.

It would have been obvious to one of ordinary skill in the art to include USB port with AARA - Ishigaki because it would provide for an alternative way to detect wireless access points on a computer system. Moreover, Ishigaki teaches the notion of at least two modes of operation, one for full battery and other for power saving, both modes are capable of detection of wireless access points, thus there are plurality of methods of detecting for wireless access point is taught by this aspect of Ishigaki, and USB interface would simply be another way of detection for wireless access points.

As per claim 19, AARA – Ishigaki disclose the invention substantially as rejected in claim 18 above, but do not explicitly teaches the notion of a light emitting diode (LED).

Official Notice is taken (see MPEP 2144.03) the concept and advantages of providing for LEDs are well known and expected in the art for notification purposes.

It would have been obvious to one of ordinary skill in the art to include the LEDs for notification purposes with Ishigaki because it would provide for a way of notifying the user. Further, Ishigaki teaches the notification step wherein the message of notification comes from the access point when the message forwarded to the client.

As per claim 31, 33, 39, 41, 51, the claims are rejected for the same reasons as rejection to claim 19 above.

As per claim 42, claim 42 is rejected for the same reasons as rejection to claim 19 above.

Furthermore, the availability notification is taught by Ishigaki, see for example, Col. 4, lines 1-15.

As per claim 43, AARA – Ishigaki disclose the invention substantially as rejected in claim 40 above, do not explicitly teach a display device for displaying text messages indicative of the availability of wireless access.

Official Notice is taken (see MPEP 2144.03) displaying text messages indicating the availability is well known and routinely used for displaying purposes at the time of the invention was made.

It would have been obvious to the person of ordinary skill in the art at the time of the invention to display the retrieved access point information on the LCD of the mobile device, in order to inform the user of the information retrieved.

As per claim 20, claim 20 is rejected for the same reasons as rejection to claim 43 above.

As per claim 52, claim 52 is rejected for the same reasons as rejection to claim 43 above.

Claims 22-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over AARA – Ishigaki, as applied to claim 17 above, in view of “Sporty’s JD-200 Transceiver Operator’s Manual” (hereinafter Sporty), 1999.

As per claim 22, the claim is rejected for the same reasons as rejection to claim 17 above.

However, AARA – Ishigaki does not explicitly say “command for the same amount of time that the electrical switch is activated, thus requiring the user to hold electrical switch in the actuated position during a seek period of the media



access controller”

Sporty teaches command for the same amount of time that the electrical switch is activated, thus requiring the user to hold electrical switch in the actuated position during a seek period of the media access controller (pg 2, “Frequency Search”, 2nd paragraph, where scanning of frequencies is initiated by pressing and holding the Up or Down Key).

It would have been obvious to the person of ordinary skill in the art at the time of the invention to incorporate Sporty teaching with AARA – Ishigaki because the combination would improve the power distribution/consumption of AARA – Ishigaki’s systems by utilizing only allocating a portion of the device power supply to certain device elements that are in use, leading to efficient power management (Sporty, pg 4 and 5, power allocation table based on consumption ratio between the various system components). Additionally, supplying of power to only a section that needs power such as scanning radio frequency only in order to conserve power for a system.

As per claim 23, the claim is rejected for the same reasons as rejection to claim 25 above.

#### **(10) Response to Argument**

A. Combination of AARA and Ishigaki

1. Appellants argue that utilizing a periodically powered sub-system with AARA changes the principle operation of AARA of performing Internet searches while the computer system is powered-on.

In response to appellants' argument, it is noted that the principle operation of the computer system disclosed in AARA is to perform searches for Internet access. The fact that the system of AARA performs such searches only while powered-on is the exact deficiency that the instant application is attempting to improve upon. The Ishigaki reference was introduced to show that such an improvement to the system of AARA is prior art, and therefore, an obvious improvement.

2. Appellants argue that incorporating the operational mode of Ishigaki with the device of AARA would render the device of AARA unsatisfactory for its intended purpose because the AARA computer system would not be continuously coupled to the network.

The Office is unable to find any portion AARA that denotes that the computer system must be continuously coupled to a network. Moreover, appellants disclose on page 15 of the appeal brief that the computer system of AARA "performs searches for Internet access when the computer system is powered-on". This statement implies that the system of AARA is not always connected to a network. Therefore, the intended

purpose of the system of AARA is not to be "continuously coupled to [a] network".

B. Section 103 Rejections over AARA and Ishigaki

1. With regard to claim 17, appellants argue that AARA and Ishigaki do not teach a system that scans for and indicates the availability available access points while the computer system is powered-off. Appellants further argue that the system of Ishigaki is powered-on during operation.

In response to appellant's arguments, it is noted that the computer system as claimed in claim 17 comprises the radio module. Therefore, if the computer system were powered-off, the radio module comprised within would also be powered-off. The definition of "off" is "not operating or operational". ("The American Heritage College Dictionary", 4<sup>th</sup> Edition). This would mean that when the computer system is powered off, the computer system and the radio module would not be operational, and therefore unable to perform the tasks as described in claim 17.

This reasoning led to the examination of the claims based on the appellants' definition of "powered-off". On page 5 of the Specification, "powered-off" is defined as a "computer system is off and is not operational as far as the computer system user is concerned". The paragraph goes on to state that "even when the notebook computer is

powered-off, there are certain functions and circuits within the computer that are still coupled to active power". By this definition, "powered-off" is equivalent to what is known in the field of computers as "standby" or "sleep" mode.

Ishigaki teaches a position-measuring means, such as a GPS receiver, is usually held in a power-off state, and a communications means (i.e., computer system) remains in a standby state (i.e., powered-off). When a position-measuring request button is pressed, a control section turns on power to the position-measuring means (i.e., radio module). (See Abstract). Therefore, in light of appellants' definition of "powered-off", it is clear that the position-measuring means as taught by Ishigaki operates while the communications means is in a "powered-off" (i.e., standby) state.

2. With regard to claim 25, appellants argue that AARA and Ishigaki do not teach a power supply enabled input signal to indicate that a notebook computer is powered-on. Appellants further argue that AARA and Ishigaki do not teach a seek logic configured to refrain from commanding a radio module to perform a scan for available wireless access points if the power supply enabled input signal is asserted.

In response to appellants' arguments, Ishigaki teaches in column 7, lines 38-50, that when the communications means (i.e., computer) is in a

communicating state (i.e., powered-on), the control section does not turn on power to the position-measuring means (i.e., radio module).

Ishigaki does not explicitly teach a power supply enabled input signal. However, such a signal is implicitly taught. Without such a signal, the control section would not know whether the communications means is in a communicating (i.e., powered-on) state or a standby (i.e., powered-off) state.

C. Section 103 Rejections over AARA, Ishigaki and "what was well known in the art"

With regard to claims 18-20, 31, 33, 39, 41-43, and 51-52, Official notice was taken that what was being claimed was well known in the art at the time of appellants' invention.

Appellants argue that the Office has failed to provide sufficient documentation to prove an expert status regarding what is well known.

In response to appellants' argument, it is noted that MPEP 2144.03(A) states that *it might not be unreasonable for the examiner in a first Office action to take official notice of facts by asserting that certain limitations in a dependent claim are old and well known expedients in the art without the support of documentary evidence provided the facts so noticed are of notorious character and serve only to "fill in the gaps" which*

*might exist in the evidentiary showing made by the examiner to support a particular ground of rejection. In re Zurko, 258 F.3d 1379, 1385, 59 USPQ2d 1693, 1697 (Fed. Cir. 2001); Ahlert, 424 F.2d at 1092, 165 USPQ at 421.*

Moreover, MPEP 2144.03(C) states that *If Applicant Challenges a Factual Assertion as Not Properly Officially Noticed or not Properly Based Upon Common Knowledge, the Examiner Must Support the Finding With Adequate Evidence.* The appellants have not, until this point, challenged the factual assertions made under Official notice as improper. For this reason, no documentary evidence was required or given by the Office. Moreover, the assertions made under Official notice should have been taken as applicant admitted prior for applicant's failure to traverse.

For the purpose of appeal, references have been provided to support the assertions taken under Official notice. Onsen teaches in figure 2 of U.S. Patent No. 6,473,811 a USB port on the side of a laptop computer. Asami teaches in figure 1 of U.S. Publication 2002/0054158 A1 LEDs BL and PL to indicate the status of the battery and power supply (para. [0075]). Asami claims priority to foreign application P2000-264173 (JP) which predates the filing date of the instant application. Lester, et al teaches in figure 1 of U.S. Patent No. 4,194,833 the scrolling of text on an LCD.

D. Section 103 Rejections over AARA, Ishigaki, and Sporty

1. With regard to claim 22, appellants argue that AARA, Ishigaki, and Sporty fail to teach commanding a power supply to power a radio module *for the same amount of time that [an] electrical switch is activated.*

Appellants argue that Sporty reference teaches that a button is pressed and held for one second to initiate a search, and a 'clear' button is pressed to stop the search, and therefore the command to search extends over the one second for which the button is pressed.

In response to appellant's arguments, the Office asserts the limitation is met in the scenario in which the button of Sporty is held for less than one second. In Sporty, when a 'up' or 'down' button is pressed, the scan process is initiated. In the scenario where the button is held for one second, the module searches the entire COMM frequency. However, in the scenario where the button is only pressed and released, the module simply selects the next higher or lower frequency.

**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.


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Respectfully submitted,

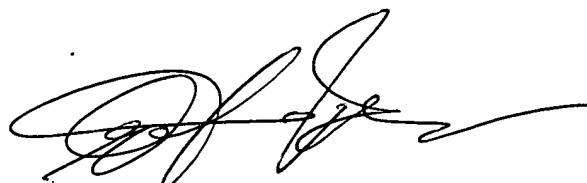
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